

STATE OF INDIANA

ERIC J. HOLCOMB, Governor

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OPINION OF THE PUBLIC ACCESS COUNSELOR

CLIFFORD W. SHEPARD,)
,)
Complainant)
1)
v.) 16-FC-321
)
IVY TECH COMMUNITY COLLEGE)
)
Respondent)
•	•

ADVISORY OPINION February 10, 2017

This advisory opinion is in response to the formal complaint alleging Ivy Tech Community College ("Ivy Tech") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-1.5-1 et. seq. Ivy Tech has responded via Mr. J.D. Lux, Esq., Assistant General Counsel on January 19, 2017. The response is enclosed for your review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on December 28, 2016.

BACKGROUND

The formal complaint dated December 28, 2016 alleges Ivy Tech violated the APRA by not complying with a records request. On November 2, 2016, a records request was sent to Mr. J.D. Lux, Esq., Assistant General Counsel requesting the syllabus for math courses by two (2) different professors. On November 8, 2016, the Respondent acknowledged the request stating he would review and provide a copy if they existed and could be located. As of December 28, 2016, the Complainant had received no further communication.

The Respondent's response stated Ivy Tech has complied with the request as of January 19, 2016, also noting these documents were not easily accessible by the respondent and the assistant general counsel did have to track down the professors and contact the appropriate staff.



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ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." *See Indiana Code § 5-14-3-1*. Ivy Tech Community College is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)*. Accordingly, any person has the right to inspect and copy Ivy Tech's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

Indiana Code § 5-14-3-3 states that production of documents responsive to a request should occur within a reasonable time of the request. While a reasonable time has not been defined by the legislature or the judiciary, this Office and prior Public Access Counselors have opined on what that term means in practicality. Among the factors incorporated in the interpretation of 'reasonableness' include size of staff, complexity of a request and any extenuating circumstances.

As mentioned above, the purpose of requiring a reasonable time is to allow an agency to search efficiently and quickly for the records sought in order to meet the timeliness standard. With that being said, it does not appear the Respondents took an unreasonable amount of time to respond to your request based upon the circumstances. The administration does not likely have direct access to an individual professor(s)'s syllabi; therefore, a delay would be warranted. Ivy Tech concedes the search was not done as urgently as it would have liked. It is my anticipation they will handle similar requests with more expediency in the future.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Ivy Tech Community College has not violated the APRA.

Luke H. Britt

Public Access Counselor



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